

REMARKS

Claims 8-26 are pending in the application. Claims 18-20 are withdrawn from consideration. Claims 8-17 and 21-26 are rejected.

As an initial matter, Applicant points out that the Examiner has not rejected claims 21 and 22. Applicant requests that these claims either be allowed or addressed in a manner other than a final rejection.

INFORMATION DISCLOSURE STATEMENT:

In the Amendment dated December 14, 2006, Applicant requested the Examiner to initial and return the modified PTO/SB/08 Form filed with the IDS on October 31, 2003. The Examiner now contends that his file does not contain an IDS dated October 31, 2003. Accordingly, Applicant again submits a copy of the IDS dated October 31, 2003, along with the date stamped filing receipt and requests the Examiner to properly consider and initial the references listed thereon.

35 U.S.C. § 103:

The Examiner has considered Applicant's previous arguments and now sets forth a new grounds of rejection. In particular, claims 8, 9, 14, 23 and 26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over DeCock (U.S. Patent No. 3,761,723) in view of Bridges (U.S. Patent No. 3,835,332).

The Examiner contends that Figures 1 and 4 of DeCock disclose an apparatus for measuring dimensions (A-G). Element 10 DeCock is applied as a light source for sending light to a plurality of photo detectors 17.

Claim 8 recites, *inter alia*, a plurality of photodetectors for directly or indirectly detecting the light from the light source, and further recites that a portion of the light which is detected penetrates through the sheet member and *another* portion of the light which is detected passes by the end of the sheet member. The Examiner acknowledges that his previous rejection did not address this feature. The Examiner's rejection was not entirely clear, so the undersigned attorney contacted him to discuss his application of the prior art.

The Examiner asserted that Figure 2 of Bridges shows a detector used for detecting defects in a web 8. For example, the detector is used to sense the existence of uncoated areas or foreign matter such as "C" in Figure 2. First, the Examiner's motivation for combining the references was questioned. Second, it was asked how each of the claimed features would be taught even if the references were combined.

Applicant submits that it would not have been obvious to utilize the defect sensing technique of Bridges with DeCock to provide the dual feature of detecting dimensions, while also detecting defects. Also, such a combination would neither teach nor suggest the claimed invention. In particular, the light referred to in claim 8 refers to light which is used for "detecting the position of the end of the sheet member." In other words, the light which penetrates through the sheet member and the light which passes by the end of the sheet member is utilized for detecting the position of the end of the sheet member. If the Examiner's alleged combination were provided, the light which is detected by the defect detector of Figure 2 in Bridges would not be provided for detecting the position of the end of the sheet member, as recited in claim 8.

Applicant also submits that DeCock uses the specific photodetectors labeled as 1-10 in Figure 3. If detectors 1-3 obtain a signal and detectors 4 and 5 do not obtain a signal, it is known that only detectors 1-3 extend into the opening of the web 14 and a dimension can be obtained accordingly. There is no reason at all that one would have modified any of the detectors 1-10 in DeCock to detect light which also penetrates through the sheet member. Decock is not looking for defects, nor does it teach or suggest how to manipulate data to obtain a dimension by using light that penetrates through the web, verses light that merely passes by the web.

An exemplary aspect of the invention is to utilize luminance levels of light which both penetrate and pass by both ends of the sheet member, as described on page 27, lines 12-17 of the specification. Even if the references were combined, they would not teach the recited features, including the claimed image data that represents a combination of the specifically recited luminance levels of the light at various parts of the sheet member.

Accordingly, the combination of DeCock and Bridges fails to teach or suggest each feature recited in claim 8, such that the rejection thereof under 35 U.S.C. § 103(a) should be withdrawn. The rejection of dependent claims 9, 14, 23 and 26 should also be withdrawn at least by virtue of their respective dependencies upon claim 8.

On pages 4 and 5 of the Office Action, first full paragraph, the Examiner takes Official Notice that it would have allegedly been “within the knowledge of one of ordinary skill” to measure both reflected and transmitted light simultaneously. First, Applicant submits that Bridges does not measure both reflected and transmitted light. Instead, Bridges measures light which is transmitted through the web. If the Examiner believes otherwise, Applicant requests

that the Examiner specifically point out where such a feature is taught. Nevertheless, claim 8 does not require detecting of reflected light.

Moreover, the Examiner points out that if Applicant traverses the Examiner's taking of Official Notice, it is necessary for Applicant to "seasonably traverse" the Examiner's position. As noted on page 8 of the Office Action, the Examiner's taking of Official Notice may be challenged by a demand for evidence. Therefore, Applicant respectfully demands that the Examiner provide supporting evidence for his taking of Official Notice on pages 4 and 5 of the Office Action, in addition to any other portion of the Office Action, in which the Examiner believes he is relying on Official Notice to make up for a lack of teaching or suggestion in the prior art.

Claims 12, 13 and 17

Claim 12 rejected under 35 U.S.C. 103(a) as being unpatentable over DeCock in view of Bridges and further in view of Wenthe, Jr. (U.S. Pat. No. 5,169,140).

Claim 13 rejected under 35 U.S.C. 103(a) as being unpatentable over DeCock in view of Bridges and further in view of Kerkhoff et al. (U.S. Pat. No. 5,237,181 [hereinafter "Kerkhoff"]).

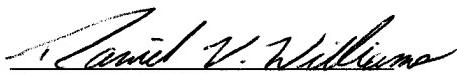
Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeCock in view of Bridges and further in view of Richards et al. (U.S. Pat. No. 6,173,952 [hereinafter "Richards"]).

Claims 12, 13 and 17 are deemed patentable over the art at least due to their respective dependences on claim 8. This is because the application of Wenthe, Jr., Kerkhoff and Richards fails to provide motivation for modifying DeCock to have the features of claim 8.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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